


Rate Review: Protecting Consumers and Insurers

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Insurance Committee
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POLICY & ACTION FROM
CONSUMER REPORTS

Michigan Should Protect Consumers

- ▶ Majority of States have prior approval
- ▶ States have changed their laws to give prior approval authority since ACA was passed include Arkansas, Mississippi, New Mexico New York, North Carolina, South Dakota, Tennessee
- ▶ Oversight, and transparency are needed to protect consumers
- ▶ This proposed legislation is a step backwards and would put Michigan at odds with the direction of the rest of the country.

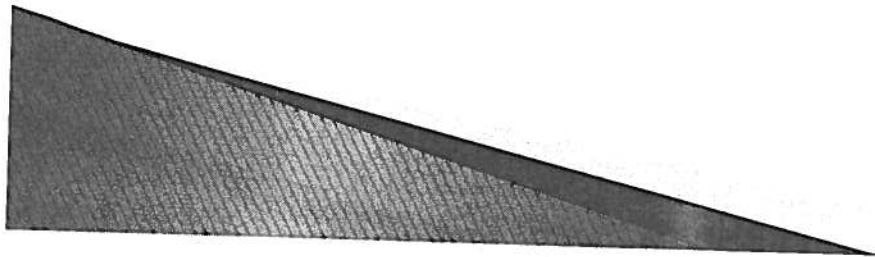
Individual Market

“...the Direct-Pay class is particularly vulnerable to the high costs of health care”

- ▶ Avg. rate increase imposed – 20%*
- ▶ Higher out of pocket costs*
 - Avg. deductible for individual: \$2,959
 - Avg. deductible for family: \$5,149
- ▶ Denied coverage for medical conditions**
- ▶ Higher premiums based on health status**

*Source: Kaiser Family Foundation, Survey of People Who Purchase Their Own Insurance, June 2010

**In most states, until 2014



MICHIGAN

Individual: 492,000

5% of total pop.

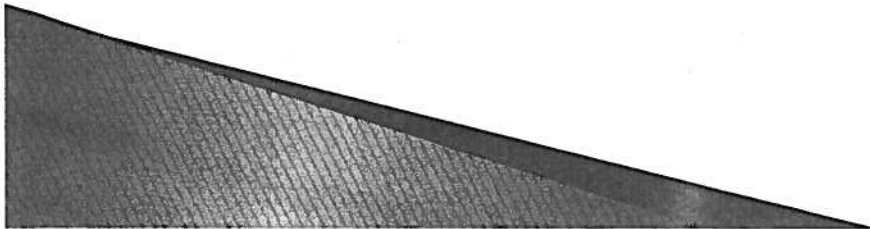
- Adults (19–64):
380,600 – 6%
- Children (0–18):
98,900 – 4%

Uninsured:

1,237,500

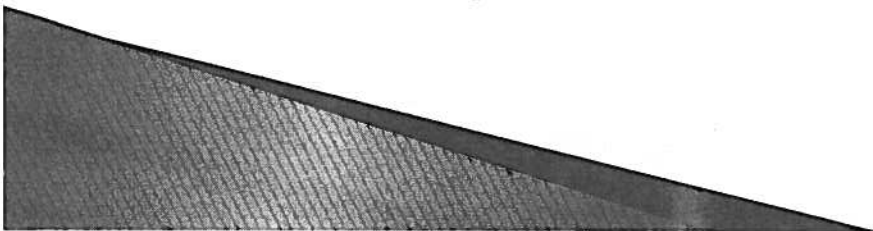
13% of total pop.

- Source: Kaiser State Health Facts
2010–2011 Data



De-Regulating a Monopoly

- ▶ BCBS of Michigan has 71% of the market.
- ▶ Michigan has one of the least competitive health insurance markets in the country (4th least competitive according to AMA study)
- ▶ The bills amend PA 350 to eliminate rate hearings and other protections. BCBSM could remain under PA 350 and set premiums like any other insurer.
- ▶ Nothing in the bills would mitigate the loss of meaningful prior approval over BCBSM

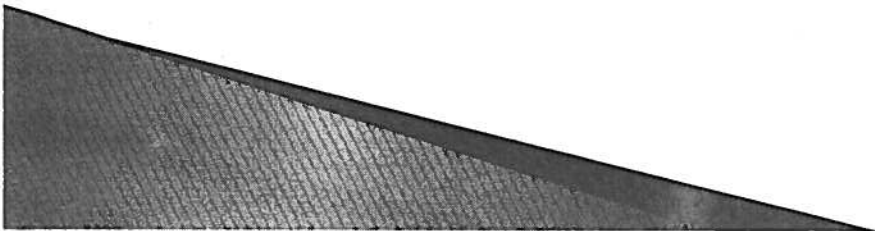


▶ **PRIOR APPROVAL**

Under prior approval laws, insurers must file rate increase requests with state regulators and rates must be approved before they go into effect. In most prior approval states, the requested rates are “deemed” approved if the Insurance Commissioner or other agency official does not affirmatively approve or deny them within a certain time frame, usually 30 or 60 days.

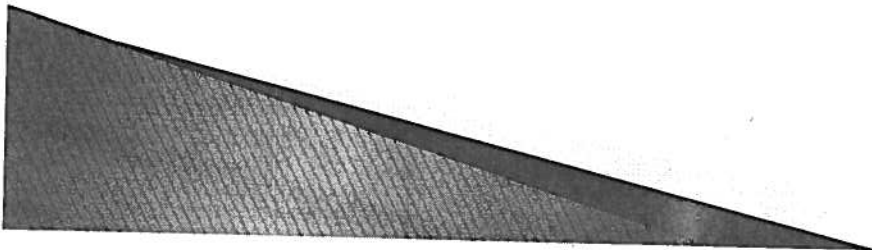
▶ **FILE AND USE**

File and use laws permit an insurer to file rate increases before or on the effective date, and implement them without having received state approval first. But state regulators may conduct retrospective review and take corrective action if rates are found to be excessive or not in compliance with state laws and regulations. (keep in mind consumers have been priced out of policies – and retrospective review does not mean those people can now obtain insurance again)



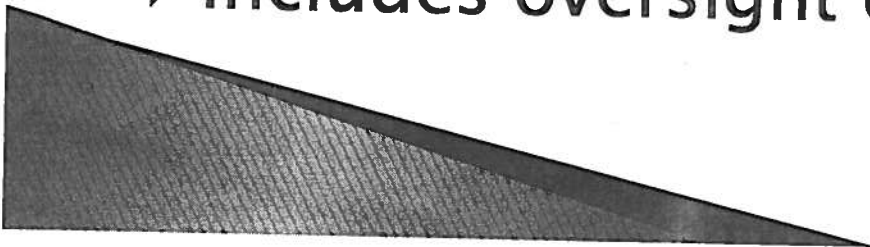
BCBSM's Mission

- ▶ BCBSM maintains that they want to continue their mission to expand access to affordable care
- ▶ Without Oversight over rates – who is holding BCBSM accountable to this mission?



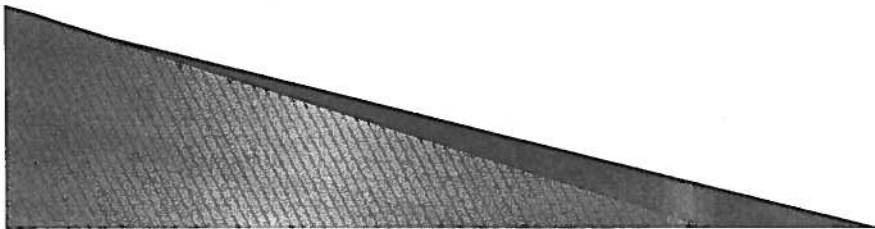
Rate Review Under PA 350

- ▶ Filing – requires specific documents and commissioner has to deem the filing complete
- ▶ Notice – given to people who asked
- ▶ Right to a hearing – policyholder, Attorney General, Commissioner or BCBSM
- ▶ Standard of review – premiums must be equitable, adequate and not excessive
- ▶ Burden of Proof on BCBS
- ▶ Includes oversight of Medigap rates



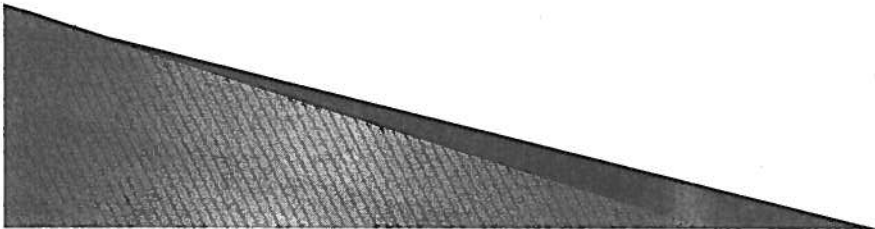
PA 350 Protects Consumers From Excessive Rates

- ▶ In 2007, BCBSM filed for a 50.3% increase in Medigap rates. After opposition by AG, BCBSM agreed to a reduced increase of 19%. A savings for Michigan seniors of \$600,000 a year



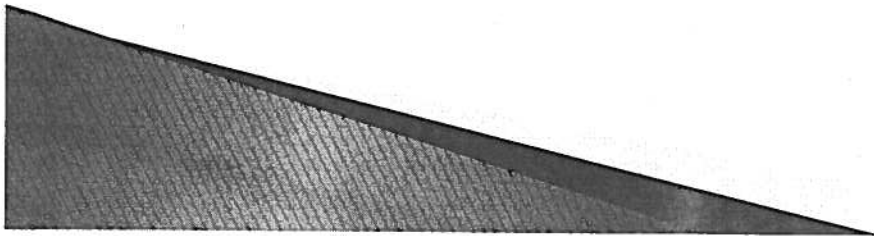
Rate Review Under the Bills

- ▶ 30 day deemer – means if the Insurance Commissioner does nothing – rates are approved
- ▶ Standard Of Review is not clear – only states that the commissioner “may” disapprove the form” – but no requirement that the form meet minimum standards
- ▶ Even the MLR standards have not been updated
- ▶ Only insurance company can request a hearing
- ▶ Silent as to Burden of Proof



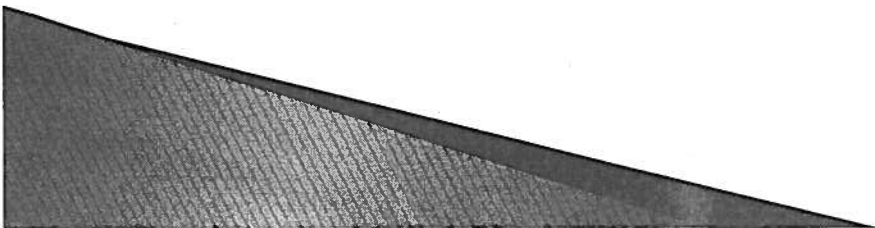
Elements of Strong Prior Approval

- ▶ Clear standard of review that includes allowing the regulator to consider whole financial picture of the company
- ▶ Notice and Transparency
- ▶ Time frame that allows for the public to engage
- ▶ Mechanism for Public to Engage
- ▶ Insurance Commissioner has the authority (and time) to request more information



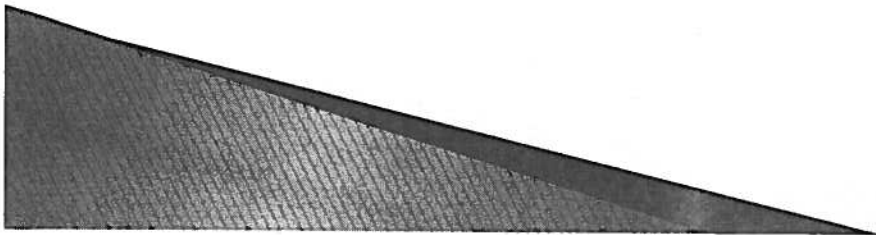
Reasons Cited by Regulators for Prior Approval

- ▶ Provides regulatory certainty for insurers;
- ▶ Better protects against insurer insolvencies;
- ▶ Allows regulators to protect vulnerable markets;
- ▶ Avoids swelling the ranks of the uninsured by holding down rates;
- ▶ Avoids insurer manipulations of loss ratios;
- ▶ Ensures more careful policing of the marketplace;
- ▶ Gives regulators the authority to curb excessive rate increase and to protect consumers against excessive rate increases
- ▶ Gives the public confidence that someone is looking out for them



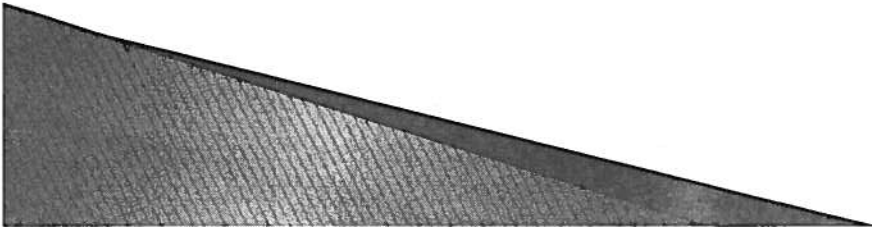
What happens when you take Prior Approval Away? – NY “Experiment”

- ▶ Under prior approval (1990–1995), the Insurance Department reduced 24% of premium rates submitted by health plans after concluding the rate was excessive.
- ▶ Under file and use (1996–2007)– health insurers self-reported excessive rates only 3% of the time.
- ▶ File and Use Increases the number of uninsured



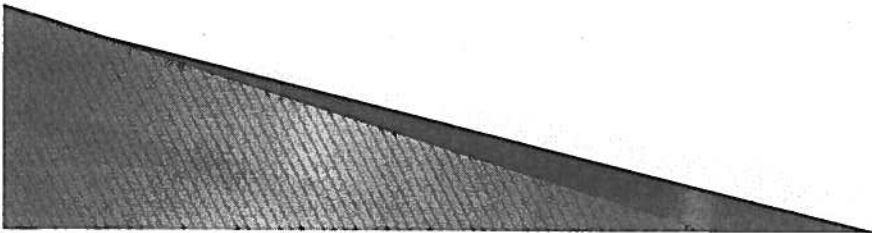
Texas Example– not where Michigan wants to go

- ▶ BCBS in Texas which is a mutual company and previously tried to wear the "nonprofit mutual" banner had to rebate just shy of \$90 million in the individual market. This is largely because Texas is a file and use state and does nothing to ensure that policyholders are getting a good deal while BCBS consistently raises rates. The company had just a 71% PPACA adjusted MLR for 2011 in the individual market.



Examples of Success of Prior Approval

- ▶ In Oregon – in the first year of prior approval law being in effect – 50% of the cases the Insurance Department approved a rate less than what was requested – which resulted in \$25 million in savings to consumers
- ▶ Oregon has 30 day comment period and the Department must issue a decision within 10 days of the close – 40 days.
- ▶ Hearing on proposed rate increases in the individual and small group markets.



Prior Approval Success Stories

- ▶ In Colorado (60 day review) –, during the six months after the prior approval law was passed (from July 2008 to January 2009), nearly half of the insurers' proposed rate increases were denied or withdrawn because they were not justifiable.
- ▶ Commissioner may consider profits, dividends, annual financial statements, subrogation funds credited, investment income or losses, unearned premium reserve, reserve for losses, surpluses, executive salaries.

